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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,032	09/17/2003	Koji Takami	100640.52778US	2581
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CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			EXAMINER LEFF, STEVEN N	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 10/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/664,032	Applicant(s) TAKAMI ET AL.	
	Examiner Steven Leff	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2-04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because it is more than 150 words.

A brief abstract of the technical disclosure in the specification must commence on a separate sheet, preferably following the claims, under the heading "Abstract " or "Abstract of the Disclosure." The sheet or sheets presenting the abstract may not include other parts of the application or other material. The abstract in an application filed under 35 U.S.C. 111 may not exceed 150 words in length. The purpose of the abstract is to enable the United States Patent and Trademark Office and the public generally to determine quickly from a cursory inspection the nature and gist of the technical disclosure.

2. The disclosure is objected to because of the following informalities:

- The word "housed" (p26, line 4) should be changed to housing.
- The word "unfrozen" (p. 30 line 23) should be changed to unfreeze.
- The word "is" should be between the words "it on" (p.31 line 12).

Appropriate correction is required.

Claim Objections

1. Claims 1, 5, 6, 7, 8, 10, are objected to because of the following informalities:

- The statement "one or plurality of" in claim 1 (lines 4 and 8) and claim 6 (line 7) is objected to and should be changed to "at least one".
- The misspelled word "peace" in claim 5 (line 3) and claim 6 (line 1) should be changed to piece.
- With regard to claim 7, the word "the" which is followed by the phrase "outer surface" (line 3) should be changed to "an".
- With regard to claims 8 (line 2) and claim 10 (line2), the phrase "is used" should be changed to the word "wherein".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

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- The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 16 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The phrase “image of the grain of wood” was not described in the specification with regard to the images which are to be placed on the “peripheral skirt”.

- The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being Indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 1 is rendered indefinite by the phrase “
- Claim 3 is rendered indefinite by the phrase “broadening toward the end”.

It is unclear as to what extent the base is broadening.

- Claim 16 is rendered indefinite by the phrase “image of the grain of wood” which lacks antecedent basis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

- Claims 1-4, 9-10, and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaneko (jp-200295429) in view of Gonda (jp-5184314)

Kaneko discloses a sushi container composed of a container body and a lid (fig. 2a). The body of the container is provided with a plurality of top-opened (fig. 2a ref. #11) shallow recesses each having a nearly rectangular shape by plane view having a size to hold the lower part of the Sushi and suitable for separately holding the individual Sushi pieces (fig. 2a ref. #11a). Kaneko also discloses a “graphic display imitates a sushi plate...” (par. 0009). The lid is provided with bottom-opened recesses (fig. 2a ref. #21) each having a nearly rectangular shape

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by plane view and covering the upper part of the Sushi held in each recess of the container body. The lid being fitted to the base at the fringe part (fig. 2a).

Kaneko however does not teach the use of microwave shielding film on the top of the sushi topping.

Gonda discloses to efficiently and rapidly thaw frozen SUSHI (vinegared fish and rice) by covering a material part of the SUSHI (fig. 3) with a material capable of shielding electron beams (fig. 4), regulating a rolled cooked rice part of the frozen SUSHI within a prescribed temperature range in a microwave oven, then stopping the heating and thawing the material part with its remaining heat. The frozen sushi is contained in a container of which the whole part could be formed of a material that is permeable to microwaves.

- With regard to claims 1 and 15 it would have been obvious to one of ordinary skill in the art at the time of invention by the applicant to have modified the cover of the protruding sushi housing parts at the part of the sushi-neta portion (Kaneko jp-200295429), by “covering a material part of the SUSHI with a material capable of shielding electron beams.” As is disclosed in the abstract of Gonda (jp-5184314).
- With regard to claim 2 Kaneko discloses the use of matching the top and bottom cover with protuberances that individually match the shape of each bottom face of the frozen sushi.
- With regard to claim 3, Kaneko discloses a sushi container which includes sidewalls of the upwardly extending protruding parts which are broadening from a top of the protruding part to the bottom of the protruding part. (par. 0016 and fig. 2)
- With regard to claim 4 Kaneko discloses a container for sushi which includes shallow recesses which act as sushi retaining parts which are of the same shape as the sushi bottom (par. 0009 and fig.2).
- With regard to claims 9, 10, 14, and 16 Kaneko teaches a container for frozen sushi and the lid being fitted to the base at the fringe part or outside (fig. 2a). The cover is shown extending down below the sushi retaining part, but does not

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extend all the way down the sides, thereby heating the material from the sides and bottom.

- With regard to claims 13, 16 and 17 Kaneko also discloses a “graphic display imitates a sushi plate...” (par. 0009)
- Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaneko (jp-200295429) in view of Gonda (jp-5184314) as applied to claim 1 above, and further in view of Imamura (jp-11290206).

Neither Kaneko nor Gonda disclose individual housings for the sushi which are parallel to each other and oblique to the sides of the rectangle.

Imamura (jp-11290206) discloses a thawing container which is suitably used to thaw a frozen food such as a frozen sushi, which comprises a container main body made of a high frequency passing material, and an upper lid made of a high frequency shielding material, and an internal tray made of the high frequency passing material is separately set on a fastening step part which is disposed on the peripheral edge of the container main body. On the internal tray, eight housing recesses are integrally molded, and the frozen sushi is housed in the housing recesses. When a microwave oven is operated at the time of the thawing of the sushi, a high frequency is not applied to sushi toppings, and in the meantime, the high frequency is applied to the rice, and the only the rice is thawed and warmed, and in a steaming process, the sushi toppings are thawed by the remaining heat of the rice.(abstract) Imamura (jp-411290206) further discloses two parallel rows which are slanted (fig. 3), and include microwave shielding film above the topping part of the sushi.

Therefore, it would have also been obvious to one of ordinary skill in the art at the time of the invention by the applicant to have made or produced a frozen sushi container that included parallel sushi housings which are angled to the sides of the rectangular, shallow concave crevices in the base, and which imitate the shape of the bottom part of the sushi.

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- Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaneko (jp-200295429) in view of Gonda (jp-5184314) as applied to claim 1 above, and further in view of Urashima (jp-410290673).

Neither Kaneko nor Gonda disclose the specific placement of the non-raw fish pieces in the corner parts of the rectangle in order to expose certain pieces to more intense microwaves.

Urashima (jp-410290673) discloses voile shrimp, and egg, a salmon, and a conger eel in crevice labeled 16a in fig. 2 and 3 and tuna or cuttlefish in the crevices labeled 16b in figs. 2 and 3.

Therefore it would have been also obvious to one of ordinary skill in the art at the time of the invention by the applicant to have made or produced a frozen sushi container in which the placement of the particular type of sushi toppings would have been of importance for thawing purposes.

- Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaneko (jp-200295429) in view of Gonda (jp-5184314) as applied to claim 1 above, and further in view of Mast (6054698).

Neither Kaneko nor Gonda disclose the use of interrupted shielding areas.

Mast (6054698) discloses a “top surface of the container is adapted to receive a shield of aluminum foil or the like having openings, e.g., holes, crisscross designs, etc. there through.” (col.3 line 49) The unshielded areas provide areas which “permit relatively large amounts of heat to penetrate the container.” (col.3 line 21)

Therefore it would have been also obvious to one of ordinary skill in the art at the time of the invention by the applicant to have made or produced a frozen maki-sushi container in which the placement of interrupted shielding film on the cover was used to control the amount of heat entering through the top.

- Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaneko (jp-200295429) in view of Gonda (jp-5184314) as applied to claim 1 above, and further in view of Brastad (4230924)

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Neither Kaneko nor Gonda disclose the idea of forming the microwave shielding by metal evaporation on the inner or outer surface of the housing.

Brastad however states, "a metallic coating...has been applied to one side of the plastic sheet, such as by vacuum evaporation. Other thin film metallizing techniques can be employed...the coating ... is a metal has been already used in the packaging of food products." ('924 col.3 line 65). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to have made or produced a frozen sushi unit in which the shielding film is on the outer or inner surface of the housing, and applied by metal evaporation.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention by the applicant to have made or produced a frozen sushi container in which the shielding film is on the outer or inner surface of the housing, and applied by metal evaporation.

Allowable Subject Matter


No claim is allowable at this point

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 3219460, 3643857, 4574174, re32.739, 5519595, 5726426, 5861184, 5951905, 6447825, 6559430, 6844536, jp11262447, jp05219906, ep642989, jp8180970, jp2002315522, jp2002281920, jp6269253, jp8256710, . Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Leff whose telephone number is (571) 272-6527. The examiner can normally be reached on Mon-Fri 8:30 - 5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571)272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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